To amend the Internal Revenue Code of 1986 to provide penalty free distributions from certain retirement plans for mortgage payments with respect to a principal residence and to modify the rules governing hardship distributions.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5, 2011

Mr. ISAKSON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide penalty free distributions from certain retirement plans for mortgage payments with respect to a principal residence and to modify the rules governing hardship distributions.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hardship Outlays to protect Mortgagee Equity (HOME) Act”.

SEC. 2. WAIVER OF TAX ON EARLY DISTRIBUTIONS FROM CERTAIN RETIREMENT PLANS FOR MORTGAGE PAYMENTS WITH RESPECT TO A PRINCIPAL RESIDENCE.

(a) In General.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(H) DISTRIBUTIONS FOR PRINCIPAL RESIDENCE MORTGAGE PAYMENTS.—Distributions to an individual which are qualified principal residence mortgage payment distributions (as defined in paragraph (9)). Distributions shall not be taken into account under the preceding sentence if such distributions are described in subparagraph (A), (C), (D), (E), or (F) or to the extent paragraph (1) does not apply to such distributions by reason of subparagraph (B).”.

(b) QUALIFIED PRINCIPAL RESIDENCE MORTGAGE PAYMENT DISTRIBUTIONS.—Subsection (t) of section 72 of such Code is amended by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (8) the following new paragraph:

“(9) QUALIFIED PRINCIPAL RESIDENCE MORTGAGE PAYMENT DISTRIBUTIONS.—
“(A) IN GENERAL.—For purposes of paragraph (2)(H), the term ‘qualified principal residence mortgage payment distribution’ means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 120th day after the day on which such payment or distribution is received to pay qualified mortgage costs with respect to a principal residence (within the meaning of section 121) of such individual or the spouse of such individual.

“(B) AGGREGATE LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified principal residence mortgage payment distributions for any taxable year shall not exceed the excess (if any) of—

“(i) $50,000, over

“(ii) the aggregate amounts treated as qualified principal residence mortgage payment distributions with respect to such individual for all prior taxable years.

“(C) PLAN DOLLAR LIMITATION.—The aggregate amount of payments or distributions re-
ceived by an individual which may be treated as qualified principal residence mortgage payment distributions with respect to any qualified retirement plan (as defined in section 4974(c)) for any taxable year shall not exceed one-half the present value of the nonforfeitable accrued benefit of the individual under the plan (determined as of the beginning of such taxable year).

“(D) QUALIFIED MORTGAGE COSTS.—For purposes of this paragraph, the term ‘qualified mortgage costs’ means amounts paid as principal or interest on acquisition indebtedness, as defined in section 163(h)(3)(B), except that—

“(i) the dollar limitation of clause (ii) of such section shall not apply, and

“(ii) any reference to a qualified residence shall be treated as a reference to the principal residence referred to in subparagraph (A).”.

(e) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking “or” at the end of subclause (IV), by striking “and” at the end of subclause (V) and inserting “or”, and by adding at the end the following new subclause:
“(VI) in the case of a qualified principal residence mortgage payment distribution (as defined in section 72(t)(9)), the date of such distribution, and”.

(2) Paragraphs (7)(A)(ii) and (11)(C) of section 403(b) of such Code are each amended by striking “section 72(t)(2)(G)” and inserting “subparagraph (G) or (H) of section 72(t)”.

(d) Effective Date.—The amendments made by this section shall apply to distributions made in taxable years ending after the date of the enactment of this Act.